

REMARKS/ARGUMENTS

Claim Objections

The Examiner rendered a detailed action under “Claim Rejections – 35 USC § 102.

The Examiner has taken the position that Claims 1-6, 9-13, 21-23 and 27 are being rejected under 35 USC § 102(b) as being anticipated by Einsig (US 5,813,951). The Examiner states that “Einsig discloses the connecting member pivotably connected through a first pivot (60) to the supporting member, and by a second pivot, (26c is pivotally connected to the connecting member) to a free weight.” The Examiner is referred to Figure 6 of the application which most clearly shows what Applicant’s invention is and it is believed that the foregoing amendment to Claim 1 clearly shows that the freeweight connectors such as 136 are pivotally connected to the members 126 which permit forward and backward movement relative to the supporting member so that the person using the exercise device has a full range of motion, both to and fro, and inward and outward relative to the exercise device.

In contradistinction, the Einsig 5,813,951 patent is directed to a totally different concept and indeed, while the access tube 60 is pivotally attached to the opened box 52, there is not the same equivalent structure in Applicant’s device and, further, the second pivot stated to be 26c by the Examiner is in fact not a freeweight connecting member as disclosed and now claimed in more specific detail by Applicant. For example, referring to Einsig 5,813,951 at Column 4 Lines 28 *et seq.*, the second pivot 26c

referred to by the Examiner is in fact a "lock bar" which folds into the parallel runner 18a and 18b and merely serve as abutment stops and does not act as the pivotally supported member as contemplated in Applicant's device. It is submitted that Claim 1 and the claims dependent thereof are allowable over the Einsig 5,813,951 reference and any of the other references taken in combination.

Claim Rejections – 35 USC § 103

The Examiner rejected Claim 16 as being unpatentable under 35 USC §103a over Einsig. Inasmuch as Claim 16 is dependant upon Claim 1 and as seen hereinbefore it is believed that Claim 1 is patentably distinct from the prior art, it is submitted that Claim 16 is also allowable.

Allowable Subject Matter

The Examiner has indicated that Claims 7, 14, and 17 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims. The Examiner will note that since these claims really depend ultimately from Claim 1, which it is believed is patentable over the prior art, it is submitted that these claims are also allowable. Additionally, there is being added new claims 28; 29 and 30 which are claims 7, 14 and 17 written in independent form and it is submitted that these claims are allowable.

The Examiner has indicated that Claims 8, 15, 18-20 and 24-26 are allowed and it is submitted that these claims, as well as the newly presented claims and the amended claims are in fact also allowable and that the Application is allowable and passage of same is respectfully requested.

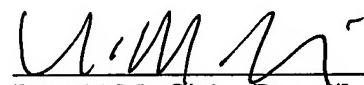
If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present Application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant invites the Examiner to contact Applicant's representative at the number listed below.

A check in the amount of \$134.00 is submitted for the additional claims. In the event any additional fees are due, the Examiner is authorized to charge Applicant's Attorney's Deposit Account No. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: December 2, 2004



Donald M. Cislo, Reg. No. 22,060

Enclosures: Check/Ack card

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477

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